IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITIN NO.6562 OF 2006

Vilas Sukhdev Nikam ....Petitioner
V/s.
Megha Vilas Nikam ....Respondent

Mr.S.S. Aradhye i/b Ms.Varsha Palav for the Petitioner.
Mr.U.B. Nighot for the Respondent.

CORAM : S.J. VAZIFDAR, J.
DATED : 19TH JANUARY, 2007.

P.C. :

1. Rule. Rule returnable and heard forthwith.

2. Mr.Nighot, the learned counsel appearing on behalf of the Respondent fairly admitted that there was no admission on the part of the Petitioner that his salary was Rs.10,000/- and that in fact the Petitioner had denied that his salary was Rs.10,000/-.

3. In that view of the matter, there is no other evidence on the basis of which the maintenance of Rs.2500/- per month can be justified. It was contended that the Petitioner’s salary was not Rs.3000/- but it was much higher. Admittedly there is no evidence to substantiate the same. In the circumstances, the following order would meet the ends

of justice -

i). The impugned order is set-aside and the matter is remanded.

ii). The Family Court shall hear the matter afresh after permitting the parties to file additional affidavits and documents in respect of their rival claims.

iii). Till the application is decided the Respondent shall pay to the Petitioner a sum of Rs.1000/- per month on or before the 10th day of each month commencing from 10.2.2007.

iv). The arrears are agreed at Rs.12,500/- considering the fact of delay in the payment thereof. The same shall be paid in ten equal monthly instalments. The first instalment shall be payable on or before 10th March, 2007.

v). It is clarified that in the event of the application being disposed of earlier, this order shall be subject to final orders in such application.

4. The Rule is accordingly made absolute.